

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

FREDRICK T. HEINKEN,)
)
Petitioner)
)
vs.) No. CIV-05-812-C
)
HASKELL HIGGINS, Warden,)
)
Respondent)

ORDER ADOPTING REPORT AND RECOMMENDATION

This action for habeas corpus relief brought by a prisoner, proceeding pro se, was referred to United States Magistrate Judge Bana Roberts, consistent with the provisions of 28 U.S.C. § 636(b)(1)(B). Judge Roberts entered a Report and Recommendation on November 29, 2005, to which Petitioner has timely objected. The Court therefore considers the matter de novo.

The relevant facts and applicable law are clearly and accurately set out in the Report and Recommendation of the Magistrate Judge and need not be repeated here. The only objection raised by Petitioner is that the lack of an adequate law library in the county jail in which he was detained prevented him from timely presenting his habeas corpus petition. This very issue was treated at length in the Report and Recommendation, and Petitioner raises no new argument of fact or law which would permit a contrary result.

Accordingly, the Court adopts, in its entirety, the Report and Recommendation of the Magistrate Judge, and for the reasons announced therein, the petition for habeas corpus relief is dismissed. As no amendment can cure the defect, this dismissal acts as an adjudication on the merits, and a judgment will enter.

IT IS SO ORDERED this 20th day of December, 2005.



ROBIN J. CAUTHRON
United States District Judge